



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,151	07/15/2003	Matthew A. Kliesner	72206	8500
27975 7590 12/03/2007 ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791			EXAMINER TRAN, KHANH C	
			ART UNIT 2611	PAPER NUMBER
			NOTIFICATION DATE 12/03/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

creganoa@addmg.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/620,151

Applicant(s)

KLIESNER ET AL.

Examiner

Khanh Tran

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED on 14 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

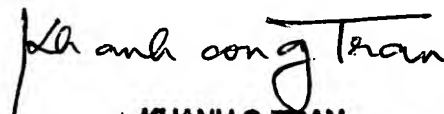
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-15.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


KHANH C. TRAN
PRIMARY EXAMINER

11/27/2007
AU 2611

Continuation of 11. does NOT place the application in condition for allowance because:

Applicants' arguments (page 9) that the gain stage provides for adjustable control overflow/underflow and neither of the references alone or in combination suggests the claimed invention. Applicants further argue on page 10 that from Vergnes et al.'s description of the Figure 6 embodiment, there is no need for a gain stage. Specifically, the specification teaches away from modifications suggested by the Examiner. The insertion of a gain stage in the Figure 6 embodiment of Vergnes et al., would have no function and thus the specification teaches away from modifications suggested by the Examiner. Applicants further argue on page 11 that the Examiner's conclusion is incorrect. As noted above, Vergnes et al. has no need for a loop amplifier and therefore it would not be obvious to add one. The only motivation that exists for adding a loop amplifier to Vergnes et al. would be to meet the terms of the claim in a classical hindsight approach. The Examiner has demonstrated no reason for modifying Vergnes et al. by adding a loop amplifier. The Examiner has failed to establish a prima facie case of obviousness by establishing a rationale for the combination of references.

The Examiner's position is that Applicants' arguments are not persuasive for the following reasons. As well known in the art that the second order phase locked loop inherently includes closed loop gain. Because of that, Vergnes et al.'s description of FIG. 6 embodiment does not mention the closed loop gain and hence Vergnes et al. does not teach away the closed loop gain. Filter 87 in FIG. 6 is, by definition, an error filter as claimed in the pending application.

Vergnes et al. teaches employment of an accumulator in a frequency synthesis circuit for controlling overflows/underflows; see column 1 lines 60-67. In another word, Vergnes et al. invention solves the same problems as claimed the pending patent application. The use of a loop amplifier is to increase the loop gain of the phase locked loop as common knowledge of one of ordinary skill in the art. Therefore, the introduction of a conventional PLL (FIG. 1) as disclosed in Perrot's US Patent is to show the loop amplifier being used in a conventional PLL. In view of that, the use of a loop amplifier in a PLL is not new to one of ordinary skill in the art at the time the invention was made. Contrary to Applicants' arguments above, the motivation is not a classical hindsight reasoning. Because Vergnes et al. teachings solves the same problems, one of ordinary skill in the art at the time the invention was made would have been motivated to implement a loop amplifier in Vergnes et al. FIG. 6 embodiment for controlling overflows/underflows.